



CLEAN AIR. HEALTHY COMMUNITIES.

STAFF

Michael Hansen
Executive Director

Kirsten Bryant
Outreach Director

Haley Colson Lewis
Staff Attorney

Nina Morgan
*Climate & Environmental
Justice Organizer*

May 4, 2021

VIA ELECTRONIC SUBMISSION

FOIAONLINE.gov

**Re: GASP Fee Waiver request: FOIA to EPA for certain records
referenced in Phase I-III Reports contained in the administrative record
for the 35th Ave. Site (Birmingham, AL).**

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To Whom It May Concern,

GASP requests that any fees associated with this request be waived because disclosure of the requested records “is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the Government and is not primarily in the commercial interest of the requester.” 5 U.S.C. 552(a)(4)(A)(iii); *see also* 43 C.F.R. § 2.48 (FWS FOIA regulations), 7 CFR, Subtitle A, Part 1, Subpart A, Appendix A, Section 6(a)(1) (FS FOIA regulations). Courts have directed that the public interest standard of the fee waiver provision should be “liberally construed” in favor of waivers. *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). Gasp addresses the requirements for a fee waiver below.

GASP meets all six criteria for a fee waiver, as explained below:

1. The requested records concerns "the operations or activities of the government." Specifically, the records will show reports not currently available through the public administrative record or by request to the Onsite Coordinator (**ATTACHED**). Where the documents referenced in the Phase I-III reports are clearly relevant to the reports themselves and thus the entire administrative record for the 35th Avenue Site, the disclosure of these records will certainly show EPA operations and activities.
2. The requested records will contribute to the understanding of EPA’s operations or activities. Such records are not available in the public domain as they are referenced in publicly available reports and not available upon request from the Onsite Coordinate (**ATTACHED**). Therefore, disclosure of such records, in fact, adds something new to the public’s understanding where the referenced records were used in preparing the Phase I-III Reports but the content of those



records is not known or available to the public without disclosure. Therefore, where the requested records would provide new information and where such records are meaningfully informative of EPA's CERCLA operations, these records have informative value to GASP and the public.

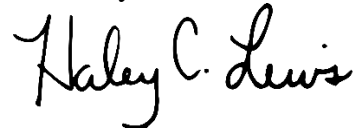
3. Disclosure of documents referenced in the Phase I-III reports will contribute to "public understanding." The disclosure contributes to the understanding of a reasonably broad audience of persons interested in the 35th Avenue Site where these records provide underlying information in the Phase I-III reports that are already publicly available. Such information will be valuable as GASP continues to work with community groups and leaders in North Birmingham. GASP has been working on environmental justice and air quality issues for over 10 years. We have on staff a Staff Attorney, Executive Director (with marketing and communications degrees), an Outreach Director (also with a marketing degree) and an Environmental Justice Organizer. As evidenced by the expertise on staff, GASP certainly has the expertise to understand documents referenced in the Phase I-III reports. Additionally, as evidenced by GASP's focus on organizing (i.e. a paid, on staff Organizer) and the plethora of educational information provided publicly on our website (See [www. https://gaspgroup.org](http://www.gaspgroup.org)) (and in monthly newsletters, membership meetings etc), we have the intention to convey this information with the public. Accordingly, GASP staff's expertise, ability and intention to convey such information warrants disclosure of documents referenced in the Phase I-III reports for the 35th Avenue Site.
4. Disclosure of documents referenced in the Phase I-III reports is likely to contribute "significantly" to public understanding of government operations or activities. Where the documents referenced in the Phase I-III reports are not available, the public's understanding of the subject in question, as compared to the level of public understanding existing prior to the disclosure, will be enhanced significantly by the disclosure. Documents referenced in the Phase I-III reports will enhance understanding the Phase I-III reports and provide relevant information and answer questions posed by information already available to GASP and the public. Once GASP receives documents referenced in the Phase I-III reports, we can also use our experience and expertise to better inform the public of the information contained in the records and significantly contribute to the public's understanding of EPA's rationale for characterization, removal and future actions at the 35th Avenue Site.
5. The disclosure is not in the commercial interest of GASP. GASP is a non- profit organization that does not charge for the services that it offers to the public. Its operational costs are funded through donations and grants and all community members are able to receive assistance, advice, and information at no charge. GASP also is not acting on anyone else's behalf in requesting these records.
6. Where GASP has no financial interest in the disclosure, there is no identified commercial interest of the requester that must be compared with the public



interest in disclosure that disclosure is "primarily in the commercial interest of the requester." As such, GASP is entitled to a fee waiver.

For the foregoing reasons, GASP is entitled to a fee waiver for this request.

Sincerely,

A handwritten signature in black ink that reads "Haley C. Lewis". The signature is written in a cursive, flowing style.

Haley Colson Lewis

